

FIRST REGULAR SESSION

SENATE BILL NO. 75

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Pre-filed January 4, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0562S.02I

AN ACT

To repeal sections 105.450 and 105.456, RSMo, and to enact in lieu thereof five new sections relating to ethics, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 105.450 and 105.456, RSMo, are repealed and five new
2 sections enacted in lieu thereof, to be known as sections 8.925, 105.450, 105.456,
3 105.465, and 130.032, to read as follows:

**8.925. No solicitation of expenditures, as defined in section
2 130.011, or fund-raising activities or fund-raising event, as defined in
3 section 130.011, supporting or opposing any candidate, ballot measure,
4 political party, or political party committee shall occur on any property
5 or in any building owned or leased by the state or any political
6 subdivision.**

105.450. As used in sections 105.450 to 105.496 and sections 105.955 to
2 105.963, unless the context clearly requires otherwise, the following terms mean:
3 (1) "Adversary proceeding", any proceeding in which a record of the
4 proceedings may be kept and maintained as a public record at the request of
5 either party by a court reporter, notary public or other person authorized to keep
6 such record by law or by any rule or regulation of the agency conducting the
7 hearing; or from which an appeal may be taken directly or indirectly, or any
8 proceeding from the decision of which any party must be granted, on request, a
9 hearing de novo; or any arbitration proceeding; or a proceeding of a personnel
10 review board of a political subdivision; or an investigative proceeding initiated by
11 an official, department, division, or agency which pertains to matters which,
12 depending on the conclusion of the investigation, could lead to a judicial or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 administrative proceeding being initiated against the party by the official,
14 department, division or agency;

15 (2) "Business entity", a corporation, association, firm, partnership,
16 proprietorship, or business entity of any kind or character;

17 (3) "Business with which a person is associated":

18 (a) Any sole proprietorship owned by himself or herself, the person's
19 spouse or any dependent child in the person's custody;

20 (b) Any partnership or joint venture in which the person or the person's
21 spouse is a partner, other than as a limited partner of a limited partnership, and
22 any corporation or limited partnership in which the person is an officer or
23 director or of which either the person or the person's spouse or dependent child
24 in the person's custody whether singularly or collectively owns in excess of ten
25 percent of the outstanding shares of any class of stock or partnership units; or

26 (c) Any trust in which the person is a trustee or settlor or in which the
27 person or the person's spouse or dependent child whether singularly or
28 collectively is a beneficiary or holder of a reversionary interest of ten percent or
29 more of the corpus of the trust;

30 (4) "Commission", the Missouri ethics commission established in section
31 105.955;

32 (5) "Confidential information", all information whether transmitted orally
33 or in writing which is of such a nature that it is not, at that time, a matter of
34 public record or public knowledge;

35 (6) "Decision-making public servant", an official, appointee or employee
36 of the offices or entities delineated in paragraphs (a) through (h) of this
37 subdivision who exercises supervisory authority over the negotiation of contracts,
38 or has the legal authority to adopt or vote on the adoption of rules and
39 regulations with the force of law or exercises primary supervisory responsibility
40 over purchasing decisions. The following officials or entities shall be responsible
41 for designating a decision-making public servant:

42 (a) The governing body of the political subdivision with a general
43 operating budget in excess of one million dollars;

44 (b) A department director;

45 (c) A judge vested with judicial power by article V of the Constitution of
46 the state of Missouri;

47 (d) Any commission empowered by interstate compact;

48 (e) A statewide elected official;

49 (f) The speaker of the house of representatives;

50 (g) The president pro tem of the senate;

51 (h) The president or chancellor of a state institution of higher education;

52 (7) "Dependent child" or "dependent child in the person's custody", all
53 children, stepchildren, foster children and wards under the age of eighteen
54 residing in the person's household and who receive in excess of fifty percent of
55 their support from the person;

56 (8) **"Paid political consultant", a person who is paid to provide**
57 **political consulting services to promote the election of a certain**
58 **candidate or the interest of a certain group, including but not limited**
59 **to, planning campaign strategies, coordinating campaign staff,**
60 **organizing meetings and public events to publicize the candidate or**
61 **cause, public opinion polling, providing research on issues or**
62 **opposition background, coordinating, producing, or purchasing print**
63 **or broadcast media, direct mail production, phone solicitation, fund**
64 **raising, and any other political activities;**

65 (9) "Political subdivision" shall include any political subdivision of the
66 state, and any special district or subdistrict;

67 [(9)] (10) "Public document", a state tax return or a document or other
68 record maintained for public inspection without limitation on the right of access
69 to it and a document filed in a juvenile court proceeding;

70 [(10)] (11) "Substantial interest", ownership by the individual, the
71 individual's spouse, or the individual's dependent children, whether singularly or
72 collectively, directly or indirectly, of ten percent or more of any business entity,
73 or of an interest having a value of ten thousand dollars or more, or the receipt by
74 an individual, the individual's spouse or the individual's dependent children,
75 whether singularly or collectively, of a salary, gratuity, or other compensation or
76 remuneration of five thousand dollars, or more, per year from any individual,
77 partnership, organization, or association within any calendar year;

78 [(11)] (12) "Substantial personal or private interest in any measure, bill,
79 order or ordinance", any interest in a measure, bill, order or ordinance which
80 results from a substantial interest in a business entity.

105.456. 1. No member of the general assembly or the governor,
2 lieutenant governor, attorney general, secretary of state, state treasurer or state
3 auditor shall:

4 (1) Perform any service for the state or any political subdivision of the

5 state or any agency of the state or any political subdivision thereof or act in his
6 or her official capacity or perform duties associated with his or her position for
7 any person for any consideration other than the compensation provided for the
8 performance of his or her official duties; or

9 (2) Sell, rent or lease any property to the state or political subdivision
10 thereof or any agency of the state or any political subdivision thereof for
11 consideration in excess of five hundred dollars per transaction or one thousand
12 five hundred dollars per annum unless the transaction is made pursuant to an
13 award on a contract let or sale made after public notice and in the case of
14 property other than real property, competitive bidding, provided that the bid or
15 offer accepted is the lowest received; or

16 (3) Attempt, for compensation other than the compensation provided for
17 the performance of his or her official duties, to influence the decision of any
18 agency of the state on any matter, except that this provision shall not be
19 construed to prohibit such person from participating for compensation in any
20 adversary proceeding or in the preparation or filing of any public document or
21 conference thereon. The exception for a conference upon a public document shall
22 not permit any member of the general assembly or the governor, lieutenant
23 governor, attorney general, secretary of state, state treasurer or state auditor to
24 receive any consideration for the purpose of attempting to influence the decision
25 of any agency of the state on behalf of any person with regard to any application,
26 bid or request for a state grant, loan, appropriation, contract, award, permit other
27 than matters involving a driver's license, or job before any state agency,
28 commission, or elected official. Notwithstanding Missouri supreme court rule
29 1.10 of rule 4 or any other court rule or law to the contrary, other members of a
30 firm, professional corporation or partnership shall not be prohibited pursuant to
31 this subdivision from representing a person or other entity solely because a
32 member of the firm, professional corporation or partnership serves in the general
33 assembly, provided that such official does not share directly in the compensation
34 earned, so far as the same may reasonably be accounted, for such activity by the
35 firm or by any other member of the firm. This subdivision shall not be construed
36 to prohibit any inquiry for information or the representation of a person without
37 consideration before a state agency or in a matter involving the state if no
38 consideration is given, charged or promised in consequence thereof.

39 2. No sole proprietorship, partnership, joint venture, or corporation in
40 which a member of the general assembly, governor, lieutenant governor, attorney

41 general, secretary of state, state treasurer, state auditor or spouse of such official
42 is the sole proprietor, a partner having more than a ten percent partnership
43 interest, or a coparticipant or owner of in excess of ten percent of the outstanding
44 shares of any class of stock, shall:

45 (1) Perform any service for the state or any political subdivision thereof
46 or any agency of the state or political subdivision for any consideration in excess
47 of five hundred dollars per transaction or one thousand five hundred dollars per
48 annum unless the transaction is made pursuant to an award on a contract let or
49 sale made after public notice and competitive bidding, provided that the bid or
50 offer accepted is the lowest received; or

51 (2) Sell, rent, or lease any property to the state or any political
52 subdivision thereof or any agency of the state or political subdivision thereof for
53 consideration in excess of five hundred dollars per transaction or one thousand
54 five hundred dollars per annum unless the transaction is made pursuant to an
55 award on a contract let or a sale made after public notice and in the case of
56 property other than real property, competitive bidding, provided that the bid or
57 offer accepted is the lowest and best received.

58 3. No statewide elected official, member of the general assembly, or any
59 person acting on behalf of such official or member shall expressly and explicitly
60 make any offer or promise to confer any paid employment, where the individual
61 is compensated above actual and necessary expenses, to any statewide elected
62 official or member of the general assembly in exchange for the official's or
63 member's official vote on any public matter. Any person making such offer or
64 promise is guilty of the crime of bribery of a public servant under section 576.010.

65 4. Any statewide elected official or member of the general assembly who
66 accepts or agrees to accept an offer described in subsection 3 of this section is
67 guilty of the crime of acceding to corruption under section 576.020.

68 **5. No statewide elected official or member of the general**
69 **assembly shall perform any services for any political campaign other**
70 **than the statewide elected official's or the member's campaign. No**
71 **statewide elected official or member of the general assembly shall**
72 **accept or receive compensation of any kind as a paid political**
73 **consultant for another statewide elected official or member of the**
74 **general assembly, or for any campaign committee, candidate committee,**
75 **political action committee, or political party committee as such**
76 **committees are defined in chapter 130.**

77 6. No member of the general assembly shall act, serve, or register
78 as a legislative lobbyist as defined in section 105.470 while serving as
79 a member of the general assembly or within two years after leaving
80 office.

 105.465. Any person who intentionally offers any item, service,
2 or thing of value, including a contribution as defined in section 130.011,
3 to any elected or appointed official or employee of the state or any
4 political subdivision and any elected or appointed public official or
5 employee of the state or political subdivision who accepts such an item
6 when it is given or received in direct exchange for voting in favor of,
7 voting against, or engaging in any legislative, executive, or judicial
8 course of action designed to benefit, delay, or hinder the passage or
9 failure of any specific state legislation, rule, or regulation, or any
10 specific local legislation, order, ordinance, rule, or regulation, shall be
11 guilty of a class D felony.

 130.032. 1. In addition to the limitations imposed under section
2 130.031, the amount of contributions made by or accepted from any
3 person other than the candidate in any one election shall not exceed
4 the following:

5 (1) To elect an individual to the office of governor, lieutenant
6 governor, secretary of state, state treasurer, state auditor, or attorney
7 general, two thousand dollars;

8 (2) To elect an individual to the office of state senator, one
9 thousand dollars;

10 (3) To elect an individual to the office of state representative,
11 five hundred dollars;

12 (4) To elect an individual to any other office, including judicial
13 office, if the population of the electoral district, ward, or other unit
14 according to the latest decennial census is under one hundred
15 thousand, three hundred twenty-five dollars;

16 (5) To elect an individual to any other office, including judicial
17 office, if the population of the electoral district, ward, or other unit
18 according to the latest decennial census is at least one hundred
19 thousand but less than two hundred fifty thousand, six hundred fifty
20 dollars; and

21 (6) To elect an individual to any other office, including judicial
22 office, if the population of the electoral district, ward, or other unit

23 according to the latest decennial census is at least two hundred fifty
24 thousand, one thousand two hundred seventy-five dollars.

25 2. For purposes of this subsection, "base year amount" shall be
26 the contribution limits prescribed in this section on January 1,
27 2012. Such limits shall be increased on the first day of January in each
28 even-numbered year by multiplying the base year amount by the
29 cumulative consumer price index, as defined in section 104.010 and
30 rounded to the nearest twenty-five-dollar amount, for all years since
31 January 1, 2012.

32 3. Except as limited by this subsection, the amount of cash
33 contributions, and a separate amount for the amount of in-kind
34 contributions, made by or accepted from a political party committee in
35 any one election shall not exceed the following:

36 (1) To elect an individual to the office of governor, lieutenant
37 governor, secretary of state, state treasurer, state auditor, or attorney
38 general, two thousand dollars;

39 (2) To elect an individual to the office of state senator, one
40 thousand dollars;

41 (3) To elect an individual to the office of state representative,
42 five hundred dollars; and

43 (4) To elect an individual to any other office of an electoral
44 district, ward, or unit, ten times the allowable contribution limit for the
45 office sought.

46 The amount of contributions that may be made by or accepted from a
47 political party committee in the primary election to elect any candidate
48 who is unopposed in such primary shall be fifty percent of the amount
49 of the allowable contributions as determined in this subsection.

50 4. Contributions from persons under fourteen years of age shall
51 be considered made by the parents or guardians of such person and
52 shall be attributed toward any contribution limits prescribed in this
53 chapter. Where the contributor under fourteen years of age has two
54 custodial parents or guardians, fifty percent of the contribution shall
55 be attributed to each parent or guardian, and where such contributor
56 has one custodial parent or guardian, all such contributions shall be
57 attributed to the custodial parent or guardian.